

UNITED STATES DEPARTMENT OF AGRICULTURE


Farm Service Agency
Washington, DC 20250

Notice SU-61

For: Sugar Beet Processors and Sugar State Offices and Service Centers

2000 Sugar Payment-In-Kind (PIK) Program Clarifications

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A

Background

The signup period for the 2000 Sugar PIK acreage diversion program began August 21. Several questions about producer eligibility and “person” determinations have been raised by processors and FSA employees.

B

Purpose

This notice provides:

- examples of different situations and the applicable producer and “person” determinations for each situation (Exhibit 1)
- clarification of other program requirements and issues.

Disposal Date

December 1, 2000

Distribution

Sugar State Offices; State Offices relay to Sugar Service Centers

Notice SU-61

2 Other Program Requirements and Issues

A

Program Requirements

All producers who share in the risk of producing the sugar beets on the acreage bid must sign CCC-744.

An eligible producer must meet all the requirements in Notice SU-60, subparagraph 6 D. A producer may be an individual, corporation, joint venture, general partnership, limited liability partnership, or other entity. The determining factors are whether the producer:

- shares in the risk of producing the sugar beets on the acres bid
 - is entitled to share in the marketing of the sugar beets from the acres bid
 - has authority to divert or destroy the acreage bid.
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B

Completing Automated Worksheet

Row number 6 in the automated worksheet has an error which does not allow the user to enter bid data for every column. When entering bid data in the worksheet, users must skip row number 6.

The following table provides the entry requirements and examples for certain columns in the automated worksheet.

Column	Requirements
H	Producer's 3-year average yield must be entered in tons per acre using up to 2 decimal places. For example 25.50.
I	Producer's sugar content must be entered as a percentage using up to 4 decimal places. For example 0.1650.
J	Processor recovery rate must be entered as a percentage using up to 4 decimal places. For example 0.7255.
K	The CCC sugar price must be entered as dollars per cwt. For example \$19.00

C

Minimum Size Requirements

In addition to the minimum size requirements provided in Notice SU-60, subparagraph 6 B, acreage offered for diversion under this program shall be a minimum of 3 chains (198 feet) in width.

Examples of Situations Regarding Producer and “Person” Determinations

When an individual or entity wants to submit a bid, the first determination that must be made is whether that individual or entity meets the requirements to be a producer. If the individual or entity does not meet the definition of a producer, then “person” determinations and payment limitation issues are not relevant.

Example 1: Situation: Bailey Farms Partnership, a general partnership, is comprised of the following members:

Ron Bailey with 25 percent share of the partnership
Mic Bailey with 25 percent share of the partnership
Cam Bailey with 25 percent share of the partnership
Monica Bailey with 25 percent share of the partnership.

The partnership has a tax ID number that is used for the farming operation. The partnership shares in the risk of producing the sugar beets, is entitled to share in the marketing of the sugar beets, and has authority to divert the acres. The partnership has completed the appropriate payment limitation forms and FSA has made “person” determinations. None of the members of the partnership have other farming interest.

Producer Determination: The partnership (not the individual members) is the producer. When completing the worksheet, enter the partnership tax ID number in column D of the worksheet; “E” for the ID type in column E of the worksheet; and the partnership name in column F of the worksheet. When completing CCC-744, enter the partnership name and tax ID number in item 17.

“Person” Determination: “Person” determinations for a general partnership are made at the member level. In this example, the FSA county committee determined that each of the members is a separate “person” from any other individual or entity. Provided that all eligibility requirements are met, the partnership is eligible to receive up to \$80,000 worth of CCC inventory sugar based on the determination that the partnership is comprised of 4 “persons.” When the bid data is entered into the FSA mainframe, the total value (column P of the worksheet) is attributed to each member based on their percent share in the partnership. Each member is then limited to \$20,000 worth of CCC inventory sugar. The partnership cannot receive more sugar than the sum of the partner’s sugar after the limitation is applied.

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Examples of Situations Regarding Producer and “Person” Determinations (Continued)

Example 2:

Situation: Ron Bailey conducts a farming operation as an individual. Ron Bailey is also the sole stockholder in Ron Bailey Incorporated, which has a separate tax ID number and conducts a farming operation separate from Ron Bailey. Neither Ron Bailey, nor his wife, have any other farming interests. Ron Bailey and Ron Bailey Incorporated share in the risk of producing sugar beets on their respective farming operations, are entitled to share in the marketing of sugar beets from their respective farming operations, and have authority to divert acres on their respective farming operations. The corporation and Ron Bailey have completed the appropriate payment limitation forms and FSA has made “person” determinations.

Producer: In this example, Ron Bailey and the corporation have separate farming operations and are both producers on their respective farming operations. Accordingly, Ron and the corporation would submit separate bids for their respective farming operations.

When completing the worksheet for the corporation, enter the corporation tax ID number in column D of the worksheet; “E” for the ID type in column E of the worksheet; and the corporation name in column F of the worksheet. When completing CCC-744 for the corporation, enter the corporation name and tax ID number in item 17.

When completing the worksheet for Ron Bailey, enter Ron Bailey’s individual Social Security number (SSN) in column D of the worksheet; “S” for the ID type in column E of the worksheet; and his first and last name in column F of the worksheet. When completing CCC-744 for Ron Bailey, enter his name and SSN in item 17.

“Person” Determination: Although Ron Bailey and Ron Bailey Incorporated conduct separate farming operations, the FSA county committee determined that Ron Bailey and Ron Bailey Incorporated are combined as 1 “person” for payment limitation purposes because Ron Bailey has more than a 50 percent interest in the corporation. If both Ron and the corporation submit bids for their respective farming operations, the amount of CCC inventory sugar awarded to both cannot exceed a combined total of \$20,000 worth of CCC inventory sugar because Ron and the corporation are combined as 1 “person.” When the bid data is entered into the FSA mainframe, the total value (column P of the worksheet) for the corporation ID number and the total value (column P of the worksheet) for Ron’s individual ID number is limited to a total of \$20,000 worth of CCC inventory sugar.

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Examples of Situations Regarding Producer and “Person” Determinations (Continued)

If an individual or entity contributes shares in a sugar cooperative but does **not** share in the risk of producing the sugar beets, then that individual or entity is not a producer for the purposes of the Sugar PIK Program.

Example 3:

Situation: Pete Smith owns shares in a sugar cooperative. He leases his shares to John Jones for \$200 per share. Mr. Smith and Mr. Jones form a general partnership which has its own ID number; however, Mr. Jones is in full control of the farming operation. The partnership was formed to allow Mr. Jones to use the cooperative shares to plant and market the sugar beets with the cooperative. Mr. Smith receives the \$200 per share regardless of the production received from the acres planted. Mr. Jones has completed the appropriate payment limitation forms for himself and FSA has made “person” determinations.

Only Mr. Jones shares in the risk of producing the sugar beets, is entitled to share in the marketing of the sugar beets, and subsequently is the only one who has authority to divert the acres.

Producer Determination: Neither the partnership nor Mr. Smith meet the definition of a producer under the Sugar PIK Program. Mr. Jones is the producer and only he is eligible to submit a bid. When completing the worksheet, enter Mr. Jones’ individual Social Security number (SSN) in column D of the worksheet; “S” for the ID type in column E of the worksheet; and his first and last name in columns F and G of the worksheet. When completing CCC-744, enter Mr. Jones’ name and SSN in item 17.

“Person” Determination: Based on the information Mr. Jones provided on the payment limitation forms, the FSA county committee determined he was 1 “person” for payment limitation purposes and is not combined with any other individual or entity as a “person.” Mr. Jones is eligible to receive up to \$20,000 worth of CCC inventory sugar provided all other eligibility requirements are met.

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Examples of Situations Regarding Producer and "Person" Determinations (Continued)

Example 4:

Situation: Larry Cache and spouse both own stock in the sugar cooperative. They lease the shares to Mr. Williams for \$200 per share. The Cache's and Mr. Williams form a general partnership which has its own ID number; however, Mr. Williams is in full control of the farming operation. The partnership was formed to allow Mr. Williams to use the cooperative shares to plant and market the sugar beets with the cooperative. The Cache's receive the \$200 per share regardless of the production received from the acres planted. Mr. Williams has completed and FSA has approved the appropriate payment limitation forms for himself.

Only Mr. Williams shares in the risk of producing the sugar beets, is entitled to share in the marketing of the sugar beets, and subsequently is the only one who has authority to divert the acres.

Producer Determination: Neither the partnership nor the Cache's meet the definition of a producer under the Sugar PIK Program. Mr. Williams is the producer and only he is eligible to submit a bid. When completing the worksheet, enter Mr. Williams' individual Social Security number (SSN) in column D of the worksheet; "S" for the ID type in column E of the worksheet; and his first and last name in columns F and G of the worksheet. When completing CCC-744, enter Mr. Williams' name and SSN in item 17.

"Person" Determination: Based on the information Mr. Williams provided on the payment limitation forms, the FSA county committee determined he was 1 "person" for payment limitation purposes and is not combined with any other individual or entity as a "person." Mr. Williams is eligible to receive up to \$20,000 worth of CCC inventory sugar provided all other eligibility requirements are met. Any "person" determination made for the Cache's is irrelevant in this example because they are not eligible producers.

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Examples of Situations Regarding Producer and “Person” Determinations (Continued)

If an individual or entity contributes shares in a sugar cooperative, shares in the risk of producing the sugar beets on the acres bid, is entitled to share in the marketing of the sugar beets from the acres bid, and has authority to divert the acres bid, then that individual or entity is a producer for the purposes of the Sugar PIK Program.

Example 5: Situation: Troy and spouse Christine own stock in the sugar cooperative. They do not lease the shares to anyone nor have they formed a partnership. They both share in the risk of producing the sugar beets; are entitled to share in the marketing of the sugar beets from the acres bid; and have authority to divert the acres bid. Only Troy has CCC-502 on file with FSA. Based on the information Troy submitted, FSA has made other 2000 program payments to the farming operation in Troy’s name only.

Producer Determination: Both Troy and Christine meet the definition of producer for the Sugar PIK Program. Both Troy and Christine must sign CCC-744 because both share in the risk of producing the sugar beets, are entitled to share in the marketing of the sugar beets, and both have authority to divert the acres. When completing the worksheet, enter both Troy and Christine’s individual SSN’s in column D of the worksheet; “S” for the ID type in column E of the worksheet; and their first and last name in columns F and G of the worksheet. Troy and Christine would both have the same offer number in column A of the worksheet. When completing CCC-744, both Troy and Christine must sign CCC-744 with their respective SSN.

Note: One spouse may sign for the other. See 1-CM, paragraph 1022.

“Person” Determination: Troy and Christine are 1 “person” for payment limitation purposes because a correct determination had previously been made for the farming operation and other 2000 program payments have been made based on that determination. The “person” determination for the farming operation previously made by the FSA Service Center will not be changed; therefore, the total amount CCC sugar awarded to both Troy and Christine cannot exceed the payment limitation of \$20,000 worth of CCC inventory sugar.

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Examples of Situations Regarding Producer and “Person” Determinations (Continued)

Example 6:

Situation: Fred Hill and spouse Ann both own stock in the sugar cooperative. They lease the shares to David Gray in return for a 20 percent share in the sugar beets produced. These 3 individuals form a limited liability partnership (LLP) which has its own ID number. The LLP is comprised of the following members:

Fred Hill with 10 percent share of the LLP
Ann Hill with 10 percent share of the LLP
David Gray with 80 percent share of the LLP.

The LLP has a tax ID number that is used for the farming operation. The LLP shares in the risk of producing the sugar beets, is entitled to share in the marketing of the sugar beets, and has authority to divert the acres. The LLP has completed and FSA has approved the appropriate payment limitation forms.

Producer Determination: The LLP (not the individual members) is the producer. When completing the worksheet, enter the LLP tax ID number in column D of the worksheet; “E” for the ID type in column E of the worksheet; and the LLP name in column F of the worksheet. When completing CCC-744, enter the LLP’s name and ID number in item 17.

“Person” Determination: For payment limitation purposes, LLP’s are considered the “person,” not the members of the LLP. The payment limitation is applied to the partnership not the individual members (LLP’s are different than general partnerships). In addition, because Mr. Gray has more than a 50 percent share in the LLP, he and the LLP are considered 1 “person” for payment limitation purposes. In this example Mr. Gray has no other farming interests. The LLP would be eligible to receive up to \$20,000 worth of CCC inventory sugar provided all eligibility requirements are met. When the bid data is entered into the FSA mainframe, the total value (column P of the worksheet) will be attributed to the LLP ID number and all bids for the LLP will be limited to \$20,000 worth of CCC inventory sugar.
